

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
PECOS DIVISION**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**V.**

**THOMAS ALAN ARTHUR,**

**Defendant.**

**CRIMINAL NO. P:19-CR-774**

**UNOPPOSED MOTION TO CONTINUE TRIAL**

COMES NOW the United States of America by and through the undersigned Assistant United States Attorney and files this Unopposed Motion to Continue the Trial from January 2020 to June 2020.

Section 3161(h)(7)(B) of Title 18 sets forth several factors that can be considered in determining that the ends of justice outweigh the best interest of the public and defendant in a speedy trial. Specifically, subparagraph (ii) provides a basis where “the case is so unusual or so complex, due to . . . the nature of the prosecution . . . that it is unreasonable to expect adequate preparation . . . within the time limits established by this section.” Similarly, subparagraph (iv) provides a basis even if the case is not unusual or complex, but is nevertheless a case in which the time limits would “deny counsel for the defendant or the attorney for the Government the reasonable time necessary for effective preparation.”

In this case, on November 7, 2019, law enforcement executed a federal search warrant at Defendant’s residence in Terlingua, Texas. During the execution of the search warrant, law enforcement located numerous media devices that need to be thoroughly analyzed by computer forensic agents. Below is a list of the media devices seized that require analysis:

1. LG Tablet, Serial Number 509CQSF0402566
2. CAT Phone

3. 2 Motorola ic502 flip phones
4. Sony Vaio computer, Service Tag#C6UORT31
5. Gray Touro external hard drive, SN 6PIJ459E
6. Oyen Digital Minipro external hard drive, SN BCC2
7. 3 Crucial external hard drives, serial numbers 14420D87E338, 14350D1F67f3, 1107030340DC
8. 7 compact disks
9. Micron 3600 desktop computer, serial number P60007201256
10. External electronic device in a black case
11. 4 Seagate external hard drives
12. Transcend external hard drive
13. 9 SD cards
14. 1 Sim card
15. Canon Digital Camera
16. Dell XPS Laptop, Service Tag 11HFP71
17. Armor computer tower, SN ST008M21STZA1MI000813
18. Computer server tower, unknown manufacturer, no serial number
19. Android cell phone, serial number S411742019096
20. 8 USB storage drives
21. 2 Compact flash drives
22. Box of VHS tapes
23. Two boxes of floppy disks
24. Box of compact disks
25. Gray computer tower, unknown manufacturer, no serial number

The forensic agent assigned to this case conducted a “preview” of the various computers and

media devices, and prioritized the search of them based upon the most likely device to contain contraband. That process is ongoing and is not expected to be complete before the January trial setting. In at least one of the analyzed hard drives, law enforcement has located images of child pornography.

The forensic analysis process requires very specific steps to be completed to preserve the integrity of the data. Specifically, all of the devices have to be imaged, which essentially means copied so that the original is preserved unaltered. Next, the imaged data has to be processed. This step takes a considerable amount of time.

In addition to the electronic evidence, the FBI seized approximately 95 boxes of sexually oriented books that need to be inventoried, catalogued, and photographed/scanned. That process will also take additional weeks to complete.

For these reasons, the United States is requesting a continuance of the trial until sometime in June 2020. Undersigned counsel has conferred with Defendant's counsel, who does not oppose such a continuance.

WHEREFORE, premises considered, the United States moves the Court to continue the trial setting from January 2020 to June 2020.

Respectfully submitted,

JOHN BASH  
UNITED STATES ATTORNEY

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**Certificate of Service**

I hereby certify that on December 10, 2019, I filed this document with the Clerk using the CM/ECF filing system, which will cause a copy of the document to be delivered to counsel for Defendant:

Lane Haygood, Mark Bennett - Counsel for Defendant.

/s/ Monica R. Morrison  
Assistant United States Attorney

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**ORDER**

BEFORE THE COURT is the Government's Motion For Continuance of the jury trial set in the above captioned cause. The Court having considered the Motion finds that the Motion should be GRANTED, and the jury selection and jury trial is hereby re-scheduled to the \_\_\_\_ day of \_\_\_\_\_, 2020, at 8:30 a.m.

Pursuant to 18 U.S.C. § 3161(h)(7)(B)(ii) and (iv), the Court finds that the nature of the prosecution is unusual and complex in that this case involves a significant amount of data that have not been completely analyzed by law enforcement, nor has the defense had sufficient opportunity to review a vast portion of the evidence or decide whether an expert should be appointed to assist in the defense. Thus, neither side has had a reasonable opportunity for effective preparation given the unusually voluminous nature of the images and other discovery in this case.

Therefore, the Court finds that the interests of justice outweigh the interests of the Defendant and of the public in a speedy trial, and that the period of time from \_\_\_\_\_, through \_\_\_\_\_, is excludable time within the meaning of the Speedy Trial Act, 18 U.S.C. § 3161, et seq.

IT IS SO ORDERED.

SIGNED and ENTERED this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

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DAVID COUNTS  
United States District Judge